

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

COMPLAINT OF ADVOCare, INC.

Docket No. C2013-1

**Complainant AdvoCare's Answer in Opposition to the
Motion of the United States Postal Service
to Dismiss Complaint**

The Complainant, AdvoCare, Inc., submits its Answer in opposition of the motion to dismiss the Complaint. The assertions of the United States Postal Service (USPS) that AdvoCare's Complaint is made "despite the overwhelming support of the community for keeping the Great Cacapon Post Office open with realignment of weekday window service hours"¹ are factually incorrect and entirely unsubstantiated by any legitimate evaluation of actual "community input"² as was described in, tentatively agreed to, and anticipated by the Advisory Opinion regarding the POStPlan in Docket No. N2012-2.³

¹ Page 1, Motion of The United States Postal Service to Dismiss Complaint, Filing ID 85701, dated 20 November 2012 (not provided to the Complainant until 21 November 2012).

² "First, Postal Service personnel will survey customers to elicit their preferences for reduced window service hours or a discontinuance study...Second, the Postal Service will review the surveys and its operational needs to determine whether a post office will continue with reduced window service hours...Third, the Postal Service will hold a community meeting to discuss the results of the survey...Fourth, if the Postal Service decides to proceed with reduced window service hours, it will consider feedback gathered at the community meeting to determine the time of day in which retail service will be provided."

³ While the term, "advisory opinion", does not seem to be defined in Title 39 of the United States Code, the common definition as expressed by Merriam-Webster is "a formal *opinion* by a judge, a court, or a *law officer* upon a question of law submitted by a legislative body or a governmental official but *not presented in a concrete case at law* and *having no binding force*." (*emphasis added*) Further, "[i]n interpreting a statute a court should always turn to one cardinal canon before all others. . . . [C]ourts must presume that a legislature says in a statute what it means and means in a statute what it says there." *Connecticut Nat'l Bank v. Germain*, 112 S. Ct. 1146, 1149 (1992). Indeed, "when the words of a statute are unambiguous, then, this first canon is also the last: 'judicial

In addition, while the USPS appears to regard the Advisory Opinion as one of binding force and effect, it still has failed to clearly establish from that Advisory Opinion that Postal Regulatory Commission (PRC or Commission) was absolute in determining that the “option to maintain current **[weekday]** window service hours was not, and is not, available to customers in locations studied pursuant to POSTPlan.”⁴ It is the USPS that has no legal support for concluding that if customers rejected a realignment of weekday window service hours that discontinuance could be enforced without the procedural safeguards provided within the United States Code and the Code of Federal Regulations. In fact, the Advisory Opinion states that, only after the first three steps of “community input” are conducted, “***if*** the Postal Service decides to proceed with reduced window service hours, it will consider feedback gathered at the community meeting to determine the time of day in which retail service will be provided.”⁵

The USPS has taken it upon itself to rule on behalf of the Postal Regulatory Commission and state with some finality that “the status quo is no longer an option”⁶, thus acknowledging their total disregard for procedural safeguards and options available should a discontinuance study be chosen.

The USPS has entirely failed to present a basis for the dismissal of the current complaint. First, as previously stated, the Advisory Opinion adopted in Docket No. N2012-2 is binding neither on the Postal Regulatory Commission, nor the parties

inquiry is complete.” 503 U.S. 249, 254.) Thus, the Advisory Opinion does not have the weight of law, or even a final ruling.

⁴ The Complainant notes that “community input” overwhelming looked at giving up Saturday window service hours in order to protect “weekday” window service; however, the USPS had rejected this notion prior to accepting any “community input” and refused to even document and report this feedback.

⁵ Page 38, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

⁶ Page 1, Motion of The United States Postal Service to Dismiss Complaint, Filing ID 85701, dated 20 November 2012.

requesting it or involved in the development of the docket, and the advisory opinion is reliable only to the extent the facts presented to the PRC were accurate and complete and the procedure described in the opinion were followed to the letter. An advisory opinion does not resolve a dispute between parties and therefore cannot bar subsequent action on grounds of *res judicata* or *collateral estoppel*. Second, the POSTPlan process was not even followed to the extent it was presented to the Postal Regulatory Commission and tentatively adopted by the Advisory Opinion, since the USPS clearly ignored the four step “community input” plan definitively outlined in Docket No. N2012-2.⁷ All evidence proves that the USPS had made its decision of realignment prior to seeking community input and certainly before the “community meeting”, hence the filing of the instant Complaint. Third, while the USPS cites any lack of jurisdiction on the part of the Commission, the Complainant points out that the Post Regulatory Commission has basis for jurisdiction to address the issues enumerated in the instant Complaint, including the violations of Title 39 of the United States Code, in addition to reviewing further the Complaint as it relates to the USPS’s Advisory Opinion in Docket No. N2012-2. The scope of the Commission’s jurisdiction is not narrowly drawn to the five particular subsections within Title 39 as the USPS would like to infer with its arguments, but the Commission’s jurisdiction is, in fact, vast in determining compliance with all of “this chapter” as well as “regulations promulgated under any of those provisions.”⁸

⁷ See FN 2.

⁸ 39 U.S.C. § 3662(a) (“**Any interested person** (including an officer of the Postal Regulatory Commission representing the interests of the general public) who ***believes the Postal Service is not operating in conformance with the requirements of*** the provisions of sections 101 (d), 401 (2), 403 (c), 404a, or 601, ***or this chapter (or regulations promulgated*** under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.”) (**emphasis added**)

The alternative argument presented by the USPS indicating that “the Commission should dismiss the complaint without prejudice because AdvoCare failed to satisfy the “meet and confer” requirement of 39 C.F.R. § 3030.10(a)(9) before filing its Complaint” should be entirely disregarded by the Commission as AdvoCare completely adhered to 39 CFR § 3030.10(a)(9) and, in fact, went above and beyond that required by both the regulation as well as the perimeters set forth by the PRC in Order No. 195⁹, which states, “An e-mail, letter, or similar attempt at communication with appropriate Postal Service personnel explaining the nature of the complainant’s concerns should ordinarily initiate the meet or confer requirement.” Here, the Complainant began attempts to contact appropriate parties within the USPS shortly after receiving the survey in September, and the USPS made absolutely no attempt to reply until after the Complaint was filed.

OBJECTIONS

The Complainant makes two very important objections to the information provided within the USPS’s motion. First the USPS continues to refer to the realignment as “the clear preference of surveyed customers”, despite the fact that all the petitions, customer letters, media coverage, customer supported Resolution of the Morgan County Commission, and, the Complainant believes the ACTUAL SURVEYS, themselves, demonstrate that the overwhelming majority of customers for the Great Cacapon Post Office DO NOT support the POSTPlan realignment. Second, the USPS has made several quotes from or references to testimony and documents that cannot, if they exist, be located by the limited citation provided. (For example, the USPS quotes Witness Day from Transcripts in Docket No. N-2012-2, yet the Complainant has

⁹ Page 16, Docket No. RM2008-3, dated 24 March 2009

downloaded those Transcripts and cannot find the quote as listed on page 226. In fact, a search of that quote does not produce a result of that quotation from any of the transcripts, interrogatories, or answers of any Witness Day¹⁰.) Therefore, the Complainant would object to the use of incomplete citations in the pleadings.

BACKGROUND

On 23 August 2012, the Postal Regulatory Commission issued an ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN (POStPlan).¹¹ In issuing its Advisory Opinion, the PRC recognized certain pertinent factors, including but not limited to:

- “Access to post office boxes will remain unchanged.”¹²
- “The POStPlan is intended to achieve cost savings with limited reductions in access and service.”¹³
- “Community meetings will be held to explain the process and ascertain service preferences.”¹⁴
- “To the extent possible, the Postal Service should not implement a reduction in retail hours at POStPlan facilities prior to making necessary modifications to buildings and/or operations so that current levels of access for existing post office box customers continues.”¹⁵

¹⁰ The Complainant notes that the Docket No. N2012-2 list a Witness Jeffrey C. Day, as well as a Witness Thomas G. Day.

¹¹ ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012

¹² Page 1, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

¹³ Page 1, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

¹⁴ Page 2, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

¹⁵ Page 2, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

“The Commission [] focused its consideration on five aspects of implementation: (1) customer access to products, services, and facilities; (2) community input; (3) discontinuance procedures; (4) village post offices (VPOs); and (5) post-implementation review.”¹⁶

Again, in the Advisory Opinion, the Commission recognized that “[i]t is possible that a survey might fail to capture the community’s preference.”¹⁷ “In addition, the Commission recommend[ed] that the Postal Service provide internet access to information on the status of all POSTPlan post offices. Information should [have] include[d] potential changes to hours of operation at the post office, copies of the customer survey and cover letter, information concerning deadlines for returning the survey, and when known, the date, time, and location of the public meeting.”¹⁸ Even the Chairman’s Message posted predominantly on the home page of the Postal Regulatory Commission’s own web site, as of today, indicates that “community input” is of the utmost importance.¹⁹

Finally, the Advisory Opinion states, “If the Postal Service chooses to not continue a post office with realigned window service hours, it will study the facility for discontinuance consistent with USPS Handbook PO-101.”²⁰ This would be consistent with 39 CFR §241.3, and both provide that the proposed discontinuance could be found

¹⁶ Page 29, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

¹⁷ Page 44, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

¹⁸ Page 60, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

¹⁹ A Request For Input From the Public (“While I am pleased that the Postal Service has initiated a process for soliciting community involvement through surveys and town hall meetings, and is keeping the community abreast of its efforts to stabilize the Service’s financial outlook, I feel the Commission should keep abreast of consumers’ experiences with the implementation of POSTPlan.”), Ruth Y. Goldway, Chairman, <http://www.prc.gov/prc-pages/default.aspx>

²⁰ Page 45, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

unwarranted and that no further action would be taken.²¹ However, the USPS has made no attempt to inform the community of these options and procedural safeguards.

On 19 September 2012, the USPS did mail letters and surveys to customers served by the Great Cacapon Post Office. However, the Complainant, and many others, made many attempts to contact the USPS district office, regional office, and headquarters, as well as the office of the General Counsel, between the time they received the letters and surveys in September and the date of the local “community input” meeting, 24 October 2012. The Complainant, and community members, attempted to a.) clarify the choices contained in the survey; b.) discuss options not listed on the survey, such as giving up Saturday hours, adjusting box rental rates, and/or considering adjustments to “last mile” rates for private carriers using USPS services; c.) obtain information for FOIA requests through the General Counsel; and d.) lodge the appeal of the proposed realignment as they were already heading in a direction disfavored by the majority within the community. However, the USPS made few, if any, attempts to respond, and the USPS provided no contact information for the General Counsel for the purpose of confirming “that prior to filing, the complainant attempted to meet or confer with the Postal Service's general counsel to resolve or settle the complaint.”²²

On 24 October 2012, the USPS did hold a community meeting to discuss the service results and the USPS’s planned hours of realignment. However, during the

²¹ See USPS Handbook PO-101, 415.1 at page 30; and 39 CFR §241.3(e)(2)(i)

²² The Complainant notes that the only contact information for the USPS General Counsel is “[f]or questions related to Postal Service employees and the Standards of Ethical Conduct for Employees of the Executive Branch” (<http://about.usps.com/who-we-are/legal/welcome.htm>), and Ms. Jessica Brewster-Johnson of that Ethics Division informed the Complainant that she was not an appropriate contact for PRC issues and “the PRC could care less about [her].”

“community input” meeting, the USPS representative, Patty Jessee, explained that the decision to change weekday window service hours was “a done deal.” (see **Exhibit A**) And, while the USPS’s assertion that [t]he public meeting was attended by approximately 150 customers is close to correct²³, the USPS fails to report that the overwhelming number of citizens present for that public meeting testified that the “Fact Sheet”²⁴ did **NOT** reflect the choices that many of those same community members present had actually returned in their surveys.²⁵ This, as well as many other discrepancies within the “Fact Sheet” presented by the USPS, was attested to by community members at the “community input” meeting, but those discrepancies went unaddressed and apparently unreported.²⁶

In addition, the document entitled, **A Petition to Protest the Proposed Cut in Operating Hours at the Great Cacapon, WV Post Office** (see **Exhibit B**), which was provided to the USPS prior to the meeting of 24 October 2012, is not reflected in the USPS’s “Fact Sheet”, survey results, nor their Background section of the motion currently before this Commission.

During the 24 October 2012 meeting, it was so obvious the USPS had inaccurately recorded the survey results and was intent on continuing to ignore and misrepresent the “community input” that the President of the Morgan County Commission, Commissioner Stacy Dugan, along with Commissioner Brenda

²³ The Complainant notes that there were 158 names on the sign-in sheet, while some did not sign in, and an unofficial count of at least 173 was taken by one of the community members.

²⁴ Exhibit B, COMPLAINT OF ADVOCARE, INC. REGARDING POST PLAN REALIGNMENT OF GREAT CACAPON POST OFFICE, WV 25422, Filing ID 85463, dated 26 October 2012.

²⁵ The Complainant can personally attest to at least eight surveys submitted in a timely manner that had “no selection made”, while the “Fact Sheet” indicates only five.

²⁶ The Complainant notes that the USPS representative present at the 24 October 2012 meeting for the purpose of recording the “community input” was equipped with **ONLY** one single blank sheet of paper in order to record the “input” and concerns of over 150 community members.

Hutchinson, announced that the Morgan County Commission would take it upon itself to conduct a Public Hearing on the matter in order to fully and accurately record the “citizens concerns regarding the realigning of the hours at the Great Cacapon Post Office.” (see **Exhibit C**) As a result, the Morgan County Commission unanimously adopted a Resolution opposing the POSTPlan realignment of hours (see **Exhibit D**), and the minutes from the 1 November 2012 public hearing reflect the USPS’s continuing misrepresentation of the “community input”. (see **Exhibit E**)

Finally, there is just far too much opposing evidence that negates the USPS’s claim that it has “the overwhelming support of the community for keeping the Great Cacapon Post Office open with realignment of weekday window service hours.”²⁷ (see **Exhibit F** – The Journal news article, **Exhibit G** – Letter of The Hon. Daryl E. Cowles, and **Exhibit H** – Letter of The Hon. Joe Manchin III)²⁸

RELEVANT LEGAL STANDARDS AND PROCEDURES

While the USPS makes an elaborate display of legal standards that the pro se Complainant must meet in order to have its Complaint considered, the Complainant presents that the record from the Complainant, as well as the community at-large, raises sufficient issues of both fact and law to have the Complaint considered by the

²⁷ Page 1, Motion of The United States Postal Service to Dismiss Complaint, Filing ID 85701, dated 20 November 2012 (*emphasis added*)

²⁸ The Complainant feels that it is important to note that the documents presented are an extremely minute representation of the opposition to realignment that has all been presented to the USPS in the form of petitions, media coverage, letters, emails, resolutions, and other correspondence from September 2012 until the present and that all the documentation is representative of concerns that were brought to the attention of the USPS, with hopes of resolution or compromise, long before the filing of the instant Complaint.

Commission, especially as it relates to the USPS's adherence to the Advisory Opinion in Docket No. N2012-2.

Title 39, Part IV, Chapter 36, Subchapter V of the United States Code clearly provides:

§ 3662. Rate and service complaints

*(a) IN GENERAL.—**Any interested person** (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404a, or 601, **or this chapter (or regulations promulgated under any of those provisions)** may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.*

The Complainant is an interested party and has set forth both issues where it believes the Postal Service is not operating in conformance with 39 USC §101(a), 39 USC §101(b), and 39 USC §403(c), as well as issues where it believes the Postal Service is not operating in conformance with regulations promulgated under those provisions, such as 39 CFR § 241.3 and the Advisory Opinion in Docket N2012-2, whether it be by direct noncompliance or intentional deception. The Complainant further laid out these issues in the Commission's own Template for Consumer Complaint_633 as provided on the Commission's web site²⁹ with additional explanation and exhibits. And, the

²⁹ http://www.prc.gov/PRC-DOCS/UploadedDocuments/Template%20for%20Consumer%20Complaint_633.doc

Complainant has certainly demonstrated issues of material facts that completely contradict the facts as presented by the USPS.

ARGUMENT

The USPS contends that AdvoCare failed to satisfy 39 C.F.R. § 3030.10(a)(2), which requires it to address in the Complaint “how the Postal Service’s action or inaction violates applicable statutory standards or regulatory requirements.” However, the USPS acknowledges that the POStPlan, itself, is derived from a rather lengthy history of appropriate and actionable review, even going back to a previous Retail Access Optimization Initiative (RAOI) program, all of which is properly within the jurisdiction of the Postal Regulatory Commission to review, and also make findings and rulings.

Given this admission by the USPS of the Commission’s prior authority, it must be concluded that the Commission has jurisdiction to consider the disputed facts at issue in this matter as to whether or not the USPS has adhered to the Commission’s Advisory Opinion of the POStPlan as well as any other conformance issues that are raised regarding provisions and regulations being violated by the manner in which the USPS is applying the POStPlan, or any discontinuance consideration, to the specific facility identified in this Complaint, the Great Cacapon Post Office.

In addition, AdvoCare has certified that it has more than satisfied the requirements of 39 CFR §3030.10(a)(9)

I. THE POSTAL SERVICE’S REALIGNMENT IN HOURS AT THE GREAT CACAPON POST OFFICE IS CONSISTENT WITH ALL STATUTORY AND REGULATORY REQUIREMENTS.

1. The Postal Service's Implementation of POSTPlan with Respect to the Great Cacapon Post Office Did Not Result in Undue or Unreasonable Discrimination or Preference.

The nexus of the USPS's response on this particular issue that "AdvoCare is treated no differently than other customers notwithstanding its insistence on special treatment..." However, the comparison the USPS makes is a comparison to other customers in the same rural area or other customers in other rural areas. What the USPS fails to address is the fact that it has demonstrated a bias against a particular class of rural customers, such as AdvoCare, who are limited by geographic location, undeveloped methods of transportation, inferior maintenance of rural and mountainous roads, inadequate internet access, and reasonably affordable mailing options. In fact, the entire POSTPlan seems to focus entirely on how to reduce or eliminate these smaller rural locations without looking at real business solutions such as cutting back in some of the largest urban facilities that are revenue draining or increasing contract rates with private carriers.

While the USPS contends that the POSTPlan is designed to address real and threatening financial burdens and economic realities, the USPS states, "Despite AdvoCare's assertions that profitability and revenue are key decision inputs, the Postal Service **examined neither of these factors** when determining the hours of operation for respective POSTPlan Offices..."³⁰ (emphasis added) Thus, by its own admission, the USPS is not concerned with addressing real financial issues and maintaining and/or increasing profitability and revenue as it claimed when seeking the

³⁰ Page 9, Motion of The United States Postal Service to Dismiss Complaint, Filing ID 85701, dated 20 November

Advisory Opinion in regard to the POSTPlan, and it is ignoring the Commission's very warning in the Advisory Opinion:

“However, the POSTPlan presents an opportunity to collect data to attempt to measure the impact of reducing hours at retail facilities on revenue, and the Postal Service should track revenue when hours are reduced. If reducing retail hours significantly reduces revenues, the Postal Service should reevaluate whether to continue the POSTPlan in future years.”³¹ (emphasis added)

The complainant has made the assertion in his Complaint that, when considering the loss of business through reduced weekday window service hours particularly given the enormous amount of “community input” and testimony that has supported this claim, the POSTPlan will create the very loss in revenue that it purports to avoid or reduce.

Overall, this particular argument that AdvoCare has not been unreasonably discriminated against fails both as an individual as well as a class of customer. The Commission should read 39 USC §403(c) in whole and in how it relates to the provisions set forth in other parts of the Code and regulations, including, but not limited to, 39 USC §101(a), 39 USC §101(b), and 39 USC §601.

2. The Survey for the Great Cacapon Post Office Clearly Identified the Options for the Community and Resulted in Crucial Feedback to the Postal Service in How Best to Proceed.

³¹ Page 20, ADVISORY OPINION ON POST OFFICE STRUCTURE PLAN, Filing ID 85013, dated 23 August 2012.

In its rebuttal to the allegations made in AdvoCare's Complaint, the USPS states, "The Postal Service was able to gain valuable information from the community to determine the most attractive option for customers and **in no way stated or even implied that it would commence any discontinuance study outside of any regulatory requirement.**"³² (emphasis added) Not only is the statement disputed by the claim that the USPS specifically told the community that this was "a done deal", as reported by testimony, media, etc.; but the very fact that the USPS informed the entire community that there was "no way to appeal" the decision to realign hours completely negates the USPS's argument.

The additional evidentiary support presented to this Commission by the Complainant and numerous other members of the affected community prove beyond a doubt that there is a genuine issue of material fact with regard to these allegations of the Complaint.

3. The Realignment of Window Service Hours Does Not Constitute a Discontinuance Action Pursuant to 39 U.S.C. § 404(d) and the Postal Service Is Not Required to Follow the Discontinuance Rules of 39 C.F.R. § 241.3.

While the realignment of weekday window service hours may not constitute a discontinuance action pursuant to 39 USC § 404(d) and the Postal Service may not be required to follow the discontinuance Rules of 39 CFR § 241.3 when making these changes, the Complainant contends that Commission must consider this realignment as a roundabout way to avoid the procedural safeguards and reduce revenue at the Great Cacapon Post Office in order to bolster a position for discontinuance of the Great

³² Page 13, Motion of The United States Postal Service to Dismiss Complaint, Filing ID 85701, dated 20 November 2012

Cacapon Post Office in the future, all while leaving the customers without the currently available stance that the facility is revenue producing and meeting all of its required numbers.

It is important to note that the USPS does **NOT** argue that the Great Cacapon Cacapon Post Office is currently revenue producing, meeting its numbers, or “operating in the black” with its current operational hours. Therefore, the Complainant, as well as the represented community, should be allowed to present a factual case that the workload methodology would have a negative effect that would render the facility subject to discontinuance through a backdoor strategy that ignores all legislative intent for procedural safeguard.

4. Any Legal Issues Raised by this Case Were Already Addressed and Resolved by the Commission in Docket No. N2012-2.

As previously stated, the Advisory Opinion adopted in Docket No. N2012-2 is binding neither on the Postal Regulatory Commission, nor the parties requesting it or involved in the development of the docket, and the advisory opinion is reliable only to the extent the facts presented to the PRC were accurate and complete and the procedure described in the opinion were followed to the letter. An advisory opinion does not resolve a dispute between parties and therefore cannot bar subsequent action on grounds of *res judicata* or *collateral estoppel*. Therefore, the Complainant, along with those in his community, are free to both bring further action and ask for review of the previous opinion based on the new and intervening actions and evidence.

The Commission chose to docket this matter as a separate Complaint and not as “feedback” for Docket No. N2012-2, as requested by the Chairman in regard to

implementation of the POSTPlan. Thus, this matter should NOT be dismissed and should be afforded an Answer from the USPS and full and fair consideration of the claims.

5. The Documents Identified in the Complaint Support Neither the Facts Alleged nor AdvoCare's Theory of the Case.

As is apparent from the additional documentary evidence already being submitted in this matter as exhibits, as well as additional comment, the facts as represented by the USPS are clearly in dispute. It would be abhorrently irresponsible for the Commission to now just surrender to the USPS's claim that the documents the Complainant seeks to obtain in discovery would not have any bearing on the facts alleged or theories of the case. The Complainant has already proven that the USPS has not accurately reported the "community input." How can the Commission then take for true the USPS's blank assertion that the documents identified in the Complaint support neither the facts alleged nor AdvoCare's theory of the case?

II. IN THE ALTERNATIVE, ADVOCARE FAILED TO MEET AND CONFER WITH THE POSTAL SERVICE'S GENERAL COUNSEL PRIOR TO FILING ITS COMPLAINT IN VIOLATION OF 39 C.F.R. § 3030.10(a)(9).

The Commission has appropriately advised that it should not engage in "unnecessary litigation over the issue of whether a meet or confer attempt would be futile"³³, even though the Rule provides that the Complainant might explain "why the

³³ Page 16, Order 195, Docket No. RM2008-3, dated 24 March 2009

complainant believes additional such steps would be inadequate, and the reasons for that belief.”³⁴ Thus the Commission has ruled,

“The Commission’s meet or confer requirement is ***simply*** an attempt to make sure that the appropriate individuals at the Postal Service—those with authority to resolve the issues raised by complainant—are aware of the issues and are given ***a reasonable opportunity to resolve*** them prior to the complainant’s filing with the Commission. An ***e-mail, letter, or similar attempt at communication*** with appropriate Postal Service personnel explaining the nature of the complainant’s concerns ***should ordinarily initiate the meet or confer requirement***. After the complainant has initiated communication, the Postal Service has a reasonable time to resolve the issue, or notify the complainant that a resolution in a reasonable period of time is likely. What constitutes a ‘***reasonable period of time***’ will vary depending on the circumstances and complexity of the issues involved. ***If the Postal Service believes settlement to be unlikely, it should immediately notify the complainant of this fact.***”

The Complainant has certified that he has met this requirement and attempted on numerous occasions to meet and confer with numerous “individuals at the Postal Service... with authority to resolve the issues raised”, including personnel within the Office of the General Counsel for the United States Postal Service. In fact, the

³⁴ 39 CFR §3030.10 (a)(9)

Complainant can document contact with the USPS and their Office of General Counsel³⁵ dating back to September of 2012, with no response being given. The Complainant can also demonstrate that he even contacted the Postal Regulatory Commission staff³⁶ and the Inspector General in attempt to gain access to specific staff within the USPS' Office of General Counsel; however, no specific contact information could be given to further initiate a meeting or conference.

Clearly, the Complainant made more than a 'simple attempt' to initiate a meeting or conference with the USPS and its General Counsel.

Then, on 24 October 2012, the Complainant along with at least 157 other members of his community did, in fact, meet and confer with USPS representative, supposedly trained and authorized to handle the issues being complained of in the instant matter. At this meeting, those representatives told the Complainant and the rest of his community that this was "a done deal" and that there was absolutely no way to appeal the decision. This, along with the USPS's repeated assertion that the Complaint offers "no issue of material issues of fact or law"³⁷ and that the remedy sought by the Complainant "was not, and is not, available to the customers in locations studied pursuant to POSTPlan"³⁸ is proof that the Complainant met the requirements of 39 CFR §3030.10 (a)(9).

³⁵ Some of those individuals include Jessica Brewster-Johnson, Karen Gardner, and finally, Kenneth Hollies, whose voicemail was only provided on the date the Complainant explained that he was moving forward with his Complaint. In addition to a huge volume of calls, the Complainant has a long list of contacts made by mail, email, and even fax to assorted authorities for the USPS.

³⁶ The Complainant notes speaking with Deborah Randall, who was unaware of whom could be contacted at the USPS and seem to agree with the Complainant that the USPS authorities were remaining intentionally illusive.

³⁷ Page 6, Motion of The United States Postal Service to Dismiss Complaint, Filing ID 85701, dated 20 November 2012

³⁸ Page 1, Motion of The United States Postal Service to Dismiss Complaint, Filing ID 85701, dated 20 November 2012

It is obvious from the Commissions previous rulings that it does not wish to litigate the matter of how many attempts must be made to “meet and confer” and what time must be given for someone to respond to a complaint; however, the Complainant is prepared to offer all the evidence necessary to demonstrate that he repeatedly attempted to “meet and confer” and was stymied by the USPS, themselves.³⁹ Add to that the assertion by the USPS, which be presented through testimony of other customers and accounts of the media, that it will not negotiate a compromise on the issues complained of, and it is sufficient to say that the Commission should either ignore the USPS’s claim in this regard, or conduct a hearing to determine whether or not the Complainant sufficiently complied beyond the limited ‘simple attempt’ standard previously set out by this Commission, or conduct a hearing to determine whether the Commission wishes to establish a more burdensome standard of proof for the “meet and confer” requirement.

CONCLUSION

Wherefore, the Commission should recognize that substantial issues of material fact have been presented that contradict the assertions of the United States Postal Service in their handling of the implementation of the POSTPlan and any possible discontinuance study that could arise enough to give way to sufficient issues of fact that could determine any conclusions of law. The Commission should also recognize that the Complainant, and its entire community, have fully met the requirements of 39 CFR §3030.10 (a)(9), and the Motion of the United States Postal Service to Dismiss

³⁹ As recently as 5 November 2012, the Complainant received an email response from the USPS’s eCustomerCare stating that they “do not have a direct number available for that office.” (See **Exhibit I**) This was in response to an earlier attempt to made telephone contact, since correspondence had not been answered. The Complainant notes that many of the community members have made similar attempts at communication and most have gone unanswered by the USPS. There has even been a letter writing campaign as recorded by the media.

Complaint should be **DENIED** and this matter should be scheduled for further proceedings.

Respectfully submitted this 27th day of November 2012.

Signed: _____



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Exhibit A

Great Cacapon voices anger over postal cuts

November 2, 2012

Kate Evans News Articles

More than 150 people packed the former Great Cacapon Elementary School on Wednesday evening, October 24, to express outrage and concern about a proposed cut in hours for the Great Cacapon Post Office.

A second public meeting will be held Thursday, November 1, at 7 p.m. by the Morgan County Commissioners. That meeting will also be held at the former school.

The Great Cacapon community has begun a letter-writing campaign to government and postal officials to appeal the cuts.

The Great Cacapon Post Office is presently showing a profit, but weekday hours are being cut from eight to six hours. This was seen by some as the prelude to the post office closing altogether.

The possible loss of Postmaster Rick Dunn because of the cuts had many upset at last week's meeting. Some called the reduced hours "a done deal" without community input.

Patty Jessee, area manager of U.S. Postal Service operations, told the crowd that the decision has been made to cut the branch hours, as early as January 12.

Public input is sought to determine the best window service hours, which would probably be 9 a.m. to 4:15 p.m. with lunch from 1 to 2:15 p.m., Jessee said. Saturday hours

would remain 8 a.m. to 11 a.m.
A final decision is expected at any time.

Survey results

Jessee said 376 of the 860 customer surveys mailed out were returned. Some 362 or 96% of the survey responses chose the realignment of hours option. No change wasn't a possible choice.

Other options included all mail being delivered by rural carriers, a post office in a local store or Great Cacapon post office customers using Berkeley Springs or Paw Paw.

Jessee said the U.S. Postal Service is facing serious financial problems from less revenue since more business is being done online. They have cut personnel, consolidated mail operations and frozen executive salaries. Every post office is being assessed for the possibility of reduced hours to cut expenses.

Ideas

Some wondered if Saturday window hours could be eliminated to keep Dunn working 40 hours.

Jessee said the position would be posted as six hours a day and that Dunn is an 8-hour a day employee. Dunn was a Berkeley Springs Post Office supervisor and has been serving as the officer-in-charge at Great Cacapon, but has not been officially appointed postmaster.

One person suggested Dunn be paid for an eight-hour day with benefits while working six hours, since he puts in more hours than required.

Model postmaster

Louise Doucette, a small

business owner, said she did package delivery through the Great Cacapon Post Office. Dunn makes doing business there “amazingly wonderful,” she said.

“The reason he’s so good is he’s pleasant to everyone, very professional and so willing to go the few extra miles,” Doucette said.

She felt it was a bad economic decision to change anything about the facility and said that if the quality of service changes, they’ll lose her business.

Lynn Hiles said he drives to the Great Cacapon Post Office to ship books and CDs for his ministries all over the world because of the quality of service he receives there.

Residents praised Dunn for organizing community food drives, supply drives for the Morgan County Backpack Program, a children’s reading area and a book swap program with the Morgan County Public Library.

Morgan County Commissioner Brenda Hutchinson, a Great Cacapon resident, said the Post Office is the center and heart of the community.

“They need someone like Rick to teach them how to do their jobs,” she said of the Postal Service.

Hardships

One woman said she lives 10 miles from the post office. Her mailbox is three-quarters of a mile from her home so packages are not left there. If hours are cut, she can’t combine stopping at the Post Office and going out to do errands, she said.

Several people commented on the dangerous trek that people

would have in bad weather to get to Berkeley Springs or Paw Paw post offices, which are six and 15 miles away respectively.

Beth Shaver said Dunn helps the elderly and those with health problems. He calls when their gas vouchers are in and brings the mail out to the car because it's difficult for her to come inside.

Dunn called in a welfare check on an elderly person he hadn't seen in a few days and saved her life, she said.

"We need to keep him and give him a raise," Shaver said.

Former Postmaster Louise Spring said she didn't want to lose Dunn. She called him "Mr. Sunshine."

Spring felt residents deserve a piece of the government as citizens of the United States. It is something that small communities are denied over and over, she said.

What next?

County Commissioners Hutchinson and Stacy Dugan attended the meeting and arranged tomorrow's public hearing.

Many urged writing letters to the Postal Service and legislators to stop the cuts.

Contact information for legislators and postal officials and a sample letter were made available to residents by Hutchinson.

Jessee said it was her ninth community meeting and that only five to 20 people had attended previous meetings.

The outpouring from the Great Cacapon area was unprecedented, she said.

She expressed pride in Dunn's service and promised to take community comments back to her supervisor.

Paw Paw Post Office

The Paw Paw Post Office is also scheduled to be evaluated for a reduction of weekday hours from eight to six, Jessee said.

That assessment won't be done until 2014 because Paw Paw has an official postmaster.

Exhibit B

October, 2012

A Petition to Protest the Proposed Cut in Operating Hours at the Great Cacapon, WV Post Office

The United States Postal Service (USPS) has proposed a two-hour per weekday (or 25%) reduction in the window service of the Great Cacapon Post Office (GCPO). The survey provided by the USPS did not offer respondents the option to keep the GCPO window service hours unchanged. Therefore, we the undersigned protest any cutback in window services.

In this rural region, the GCPO is a crucial business and residential services center and is very important to the economic health of Morgan County. Any cutback in services will harm the fragile economic health of this area. We strongly urge the USPS to withdraw the proposed cutback to weekday window service hours at the GCPO.

NAME

ADDRESS

Steve VANORDER

Anne Barney

Steve Haslman

Breck Dunn

Jackie Lewis

Bob Cartmill

Cheryl Hook

Dianna Clark

Raymond Clark

Cheryl Clark

Nalley Kelley

NAME

ADDRESS

Tom / Tomp

Tom GARRICAN

de fark

TOM GRINDER

Zach Ziler

Sandy Kidwell

Hub & Dottie Zuckerman

Curtis Bryner

Lacey Bryner

Louise Spring

Cheryl Ziler

Pauline L. Shandsaugh

Samuel B. Thum

Paula J. Jeff

Linda Cornwall

Steve Hutchinson

George D. McHenry Jr.

Clifton Warner

NAME

ADDRESS

BOB DETNER

Karen Elwhinn

Carol Leager

Kate Evans

Hinda Ali

Julia Webb

Roy + Beth Shaver

Ritka G. Linsburg

Ardey Clark

Lydia Steedman

Susan McConnell

Joyce Spring

Ralph Shambugh, Jr.

Joyce Hiles

Lynn Hiles

MELANIE BUELL

JUSTIN BUELL

AUSTIN BUELL

ERIC BUELL

NAME

ADDRESS

Eugene McDermott

Don Mc Dermott

Don & Ann

Don Morgan

Victor Juppens

Gene Galt

W Hartman

Roger A. Steiner, Jr

Gay M. Smith

WALTER GARDEN

Linda Kjeldgaard

Larry Hutchinson

Don PATERSON

Pat Morgan

Ardis Armstrong

Dorothy E. Beck

Dale Fisher

Diana Coe

Thomas Paul D'Amico

NAME

ADDRESS

Junion L. Hale

Nikki Anders

Kathy Montgomery

Fori Slaght

Frank J. Slaght

M. J. Kucharski

Frank L. Kucharski

Linda Kucharski

Willard Cross

Cynthia Fowler

Dale McDonnell

Karen R. Whisher

G. J. BRADLEY

Arlene Powers

Tom Pfadenhauer

Mae Pfadenhauer

Pat Funderburk

Bernard Hook

Patricia Hook

NAME

ADDRESS

NAME	ADDRESS
Claudia J. Rand	[REDACTED]
Kimberly J. [REDACTED]	[REDACTED]
Roger Steiner Jr.	[REDACTED]
Barbara N. Bar	[REDACTED]
Barbara Lloyd	[REDACTED]
Roy & Barbara W. [REDACTED]	[REDACTED]
Bob Snyder 375	[REDACTED]
Margaret Rainier	[REDACTED]
Arletta M. Lumspe	[REDACTED]
Dorothy B. Lawver	[REDACTED]
W. F. [REDACTED]	[REDACTED]
Chill [REDACTED]	[REDACTED]
Dawn Heckman	[REDACTED]
Tim Schwinghammer	[REDACTED]
Barbara Stotler	[REDACTED]
Leonard Stotler	[REDACTED]
ANITA HUNG	[REDACTED]
ED HUNG	[REDACTED]
Michelle Strbaugh	[REDACTED]

NAME

ADDRESS

Charles & Wanda Perry

Harold & Janice Bright

Jim & Andree Throgh

Pam Mann

Annie Lloyd

Kenneth H. H. H.

LARRY P. SERGIO

Catherine Milley

Jason Brown

Lisa Meek

Aubrey Meek

Heidi Winnebarger

NANCY MENADACE

MELISSA TIMOTHY FARRIS

Michael Haysstad

JAY CORNELL

Anna Rogers

Douglas Terry

Traci Terry

NAME

ADDRESS

Herman Nelson

Herdon Chambers

Dean Hutchinson

David Childs

Jerry Brennan

Jim & George Chiles

Maureen Mylander

George Selleriger

Deborah Joyce

M. Carl Foley

Carol Smith

Stacey McDonald

Ray Wachter

Wynn Wagner

Melanie Sharkey

Lexa & Terry Kirk

Gilbert Barnhart

Frances Ziler

Pat Williams

NAME

ADDRESS

Spencer Ellinger	[REDACTED]
Vaughn Hillgren	[REDACTED]
Lynn Hutchinson	[REDACTED]
Beverly Parks	[REDACTED]
Christina Meyer	[REDACTED]
John & Dolores Richards	[REDACTED]
Laurie & EJ Fischer	[REDACTED]
Richard Voorhaar	[REDACTED]
Sandra Voorhaar	[REDACTED]
Ernest Erdsey	[REDACTED]
Brenda Luber	[REDACTED]
Ronald Luber	[REDACTED]
Jeff Bissmeyer	[REDACTED]
Patty (Sarah) Drury	[REDACTED]
Latricia Ann Sitt	[REDACTED]
Mary & Mike Hammond	[REDACTED]
ROBERT L. KEFFER JR	[REDACTED]
Linda Schoentube	[REDACTED]
Dore Neider	[REDACTED]
Ed & Norma Adair	[REDACTED]
George McGee	[REDACTED]

7
11/1/01
23

Great Cacapon

A Petition to Protest the Proposed Cut in Operating Hours at the Great Cacapon, WV Post Office

NAME

ADDRESS

Donald Gale
Doreen Bremner
Celleen Wainwright
Renee Wainwright
Wanda Hill
Kenneth Beavers
Elizabeth Barthlow
Don Jarvis
Barbara Barrett
C. B. Barrett
Janet Ruth Thore
Janet Harshe
Carrie R. Wachter
Gail M. Chilcote
Elizabeth Chilcote
Landra R. Eve
Harry Harky
KEITH DEBIASIO
Laura Whisner
Margaret Barthlow
C. B. Barrett
Mrs. Mrs. Stockett
Jan Todd
Mrs. M. J. J.
Stephanie J. J.
Rick Light
Edith J.
Barb Walker
Barb Johnson
Keith C. J.
Tim Dore

*Redactions have been applied for the purpose of online public disclosure of this Exhibit.
Both the Postal Regulatory Commission and the Postal Service have been provided
with full copies of the original documents.

Great Cacapon

A Petition to Protest the Proposed Cut in Operating Hours at the Great Cacapon, WV Post Office

Manda Deans
 Dany Deans
 Edoy Rubin
 Lillian Keller
 Elman
 Kathy Thamer
 Mary Lou Koont
 Betty Smelser
 Lisa Bowman
 Enka Bowman
 Kathryn Morgan
 Menna Mechem Hurst
 Elaine Poirer
 Charlotte Davis
 Annie Helber
 Jerry White
 Ischup
 Betty Adams
 Will Adams
 Sarah Oster
 Dolly Rallis
 Ruth Courtney
 Melany Detrick
 CHARLES MURK

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Exhibit C

MORGAN COUNTY COMMISSION
77 Fairfax Street, Rm 101
Berkeley Springs, WV 25411

AGENDA

Public Meeting Notice

There will be a public meeting to listen to citizens concerns regarding the realigning of the hours at the Great Cacapon Post Office.

When: Thursday, November 1, 2012 @ 7 pm
Where: Great Cacapon Elementary School

Exhibit D



Morgan County Commission

77 Fairfax Street, Room 101
Berkeley Springs, West Virginia 25411
304-258-8540

-COMMISSIONERS-

BRENDA J. HUTCHINSON
5154 MILO SCHOOL ROAD
GREAT CACAPON
WV 25422
304-947-7713

STACY A. DUGAN
401 S. LAUREL AVENUE
BERKELEY SPRINGS
WV 25411
304-258-9648

BRADLEY J. CLOSE
380 DRY RUN ROAD
BERKELEY SPRINGS
WV 25411
304-258-3795

NOVEMBER 1, 2012

MORGAN COUNTY COMMISSION RESOLUTION URGES US POSTAL SERVICE TO CONTINUE FULL TIME SERVICE AT GREAT CACAPON POST OFFICE

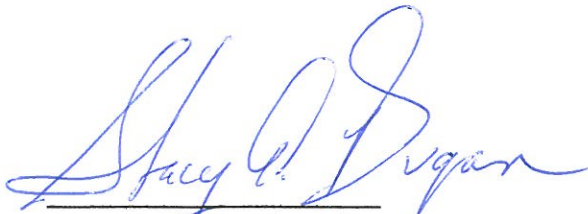
WHEREAS, The Morgan County Commission at a public meeting on November 1, 2012 heard testimony from a significant number of residents strongly opposing announced reduction in service at the Great Cacapon Post Office;

WHEREAS, the overwhelming view of local residents is that their Post Office is a vital institution in supporting small business operations, provides important services for seniors (e.g. obtaining mail order medical prescriptions), and facilitates rural communication and community;

WHEREAS, while the community understands the need of the U.S. Postal Service to significantly reduce costs to deal with changes in the postal economy, the community strongly believes the Great Cacapon Post Office pays for itself on an annual basis and should be maintained in any plan to save the Post Office and avoid further deterioration in service and operating loss;

WHEREAS, the residents of Great Cacapon believe their views were not taken into account in the Postal Survey conducted prior to the decision (by omitting the full service option) or adequately recorded at the Post Office Public Meeting held on October 26, 2012 attended by over 150 residents;

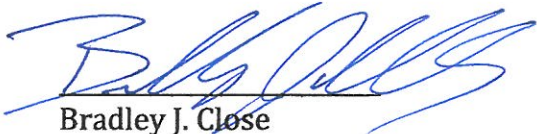
NOW THEREFORE, BE IT RESOLVED, that we, the County Commission of Morgan County, West Virginia, do not support the changes in operations in Great Cacapon and urge the U.S. Postal Service to reverse its decision and/ or suspend its implementation until it can demonstrate that no other reasonable option exists for Great Cacapon.



Stacy A. Dugan, President
Morgan County Commission

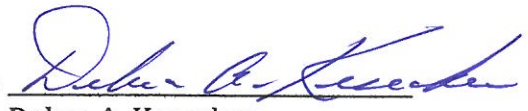


Brenda J. Hutchinson
Morgan County Commission



Bradley J. Close
Morgan County Commission

ATTEST:



Debra A. Kesecker
Clerk of the County Commission

Exhibit E

Morgan County Commission
Special Public Meeting Minutes
November 1, 2012

Public meeting to listen to citizens concerns regarding the realigning the hours at the Great Cacapon Post Office.

Members present: Stacy Dugan, Brenda Hutchinson and Brad Close

The meeting was opened by Commission President Stacy Dugan at 7:00 p.m.
The Pledge of Alliegiance was read aloud.

President Dugan asked for public comments and concerns regarding realigning the hours at the Great Cacapon Post Office.

Keith DeBlasio- Mr. DeBlasio stated that he was mis-informed and was told that the realigning of the hours at the Great Cacapon Post Office was a final and done deal. Mr. DeBlasio stated that after researching and spending hours on the telephone with postal regulatory commission representatives he has discovered that this is not a done deal. Mr. DeBlasio has filed a formal complaint with the postal regulatory commission and intends to follow through with this. Mr. DeBlasio stated that 46% of the post offices in America are revenue neutral and Great Cacapon post office is at the top of the list for earning revenue. Mr. DeBlasio thanked the Commission for having the meeting and listening to citizens concerns.

Louise Spring- Ms. Spring thanked the County Commission for coming and having a public meeting. Ms. Spring expressed her thanks for a small community and coming together at a time of need. Ms. Spring stated that she saw the Great Cacapon school close and she feels that cutting the hours on the post office will cause revenue loss and the post office will eventually be closed down.

Lynn Hiles- Mr. Hiles stated that he is a non profit ministry from Berkeley Springs, WV but drives to Great Cacapon, WV to do business at the Great Cacapon Post Office. Mr. Hiles' ministry ships a lot of packages and has exceptional service at the Great Cacapon Post Office. Mr. Hiles is concerned that the post office may shut down and if it does, he will no longer use the United States Postal Service at any location.

Rick Dunn- Rick Dunn, Postmaster at Great Cacapon Post Office, thanked everyone for their efforts and support and stated that Great Cacapon is definitely a worthy community.

Jerry Berman- Mr. Berman stated that he has looked at the regulations and hopes that having this meeting helps create a record that can be sent to the Post Office Regulatory Commission. Mr. Berman stated the residents need to submit reasons why the service is important to the residents and how the residents profit from the service in Great Cacapon.

Susan McConnell- Ms. McConnell stated that she read the documents explaining the proposed reduction in hours and believes that the public is also losing an additional 45 minutes of open business a day. Ms. McConnell suggested closing on Saturdays and keeping the hours during the week the same.

Lexa Kirk- Ms. Kirk stated that the post office is the life blood of the community. There is no library or school in Great Cacapon. The post office participates in programs including the children's backpack program, a coat drive and a book drive. It would be detrimental if the post office is closed.

Cheryl Rink- Ms. Rink stated that there is a lot of emotion with this and the public were told untruths. Ms. Rink stated that she has sent an email and 5 letters to the postal service. Ms. Rink stated that she will continue to follow up with this until she can get some response from the postal service.

George McHenry Jr.- Mr. McHenry stated that the post office is our representation and it supports the community. Cutting the hours will lose revenue and will eliminate the post office all together. The community needs to get public officials involved in this to support us. The post office provides communication for the citizens and offers programs. It will be a huge inconvenience to a lot of people if they have to travel to Berkeley Springs because the post office is shut down. We need to get support and try to stop this.

Commissioner Brenda Hutchinson- Commissioner Hutchinson stated that packets of letters for elected officials and legislators are provided on the back table. Commissioner Hutchinson explained that she personally uses the post office in Great Cacapon and knows how important it is to the community. Commissioner Hutchinson read aloud a resolution to be passed. On a Brenda Hutchinson/Brad Close motion, the County Commission of Morgan County, WV do not support the changes in operations in Great Cacapon and urge the U.S. Postal Service to reverse its decision and/or suspend its implementation until it can demonstrate that no other reasonable option exists for Great Cacapon. This motion carried.

Commissioner Brad Close- Commissioner Brad Close thanked postmaster Rick Dunn for the exceptional job he performs and everything he does to help the community. Commissioner Close stated this shows what a sense of community means, it's the small things that you have done. Things like this keeps the community together, stay active, stick to the facts and talk about revenue. Don't lose the fight and keep fighting.

Pam Mann- Ms. Mann stated that she is a children's librarian at the Morgan County Library located in Berkeley Springs, WV. The post office is the last thing we have for the community in Great Cacapon, WV. Ms. Mann suggested citizens go to their neighbors, explain what is happening, take the letters, the more we get the more

support we have. We need to write letters and make sure that the neighbors do as well.

Commission President Stacy Dugan- President Dugan thanked everyone for showing their support and attending the meeting. President Dugan stated that letters along with the minutes from the public meeting and the resolution will be sent to the state and local officials.

Jerry Berman- Mr. Berman stated that he is going to create a petition to be placed in the post office so the citizens will have a chance to sign it.

The public meeting was adjourned.

Sign In sheets attached



Morgan County Commission

77 Fairfax Street, Room 101
Berkeley Springs, West Virginia 25411
304-258-8540

-COMMISSIONERS-

BRENDA J. HUTCHINSON
5154 MILO SCHOOL ROAD
GREAT CACAPON
WV 25422
304-947-7713

STACY A. DUGAN
401 S. LAUREL AVENUE
BERKELEY SPRINGS
WV 25411
304-258-9648

BRADLEY J. CLOSE
380 DRY RUN ROAD
BERKELEY SPRINGS
WV 25411
304-258-3795

NOVEMBER 1, 2012

MORGAN COUNTY COMMISSION RESOLUTION URGES US POSTAL SERVICE TO CONTINUE FULL TIME SERVICE AT GREAT CACAPON POST OFFICE

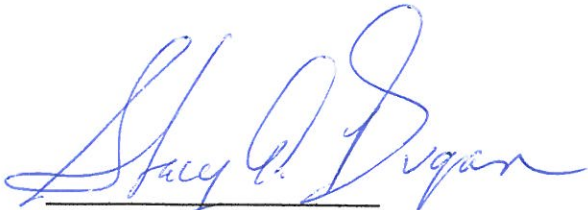
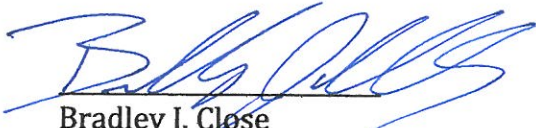
WHEREAS, The Morgan County Commission at a public meeting on November 1, 2012 heard testimony from a significant number of residents strongly opposing announced reduction in service at the Great Cacapon Post Office;


WHEREAS, the overwhelming view of local residents is that their Post Office is a vital institution in supporting small business operations, provides important services for seniors (e.g. obtaining mail order medical prescriptions), and facilitates rural communication and community;

WHEREAS, while the community understands the need of the U.S. Postal Service to significantly reduce costs to deal with changes in the postal economy, the community strongly believes the Great Cacapon Post Office pays for itself on an annual basis and should be maintained in any plan to save the Post Office and avoid further deterioration in service and operating loss;

WHEREAS, the residents of Great Cacapon believe their views were not taken into account in the Postal Survey conducted prior to the decision (by omitting the full service option) or adequately recorded at the Post Office Public Meeting held on October 26, 2012 attended by over 150 residents;

NOW THEREFORE, BE IT RESOLVED, that we, the County Commission of Morgan County, West Virginia, do not support the changes in operations in Great Cacapon and urge the U.S. Postal Service to reverse its decision and/ or suspend its implementation until it can demonstrate that no other reasonable option exists for Great Cacapon.


Stacy A. Dugan, President
Morgan County Commission
Brenda J. Hutchinson
Morgan County Commission
Bradley J. Close
Morgan County Commission

ATTEST: 
Debra A. Kesecker
Clerk of the County Commission

Morgan County Commission

MEETING SIGN-IN SHEET

Great Cacapon Post Office

DATE: NOV 1 - Public Meeting		Sheet:	Of:
NO.	NAME	REPRESENTING	PHONE #
1	Anna Rogers		
2	RON GARRISON		
3	Betty Hutchinson		
4	Karen Whom		
5	Sandra Ottaviano		
6	Margaret Bonbright		
7	Bob Burt		
8	Cecilia Rauch		
9	Just Ware		
10	Gary Belman		
11	Kate Evans		
12	Rick Medinos		
13	Van Brown		
14	Jackie Lynn		
15	Bob		
16	Maurice W. Warden		
17	George Sellinger		
18	Gary Stanley		
18	Allen K. Michael		
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**** Redactions have been applied for the purpose of online public disclosure of this Exhibit. Both the Postal Regulatory Commission and the Postal Service have been provided with full copies of the original documents.**

Morgan County Commission

MEETING SIGN-IN SHEET

Great Cacapon Post Office

DATE: NOV 1 - Public Meeting		Sheet:	Of:
NO.	NAME	REPRESENTING	PHONE #
			E-MAIL ADDRESS
1	Rick Dunn		
2	Louis Spring		
3	Chris Gurgg		
4	Bob Swigg		
5	Cheryl Riddle		
6	Tom Grindler		
7	Lynn Hiles		
8	JANICE McPEAK		
9	Junda Kjelgaard		
10	Joan Kjelgaard		
11	Joyce Frazier		
12	Pamela Mann		
13	Ed Fischer		
14	LAURIE Metzger		
15	Claire Mellick		
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Morgan County Commission

MEETING SIGN-IN SHEET

Great Cacapon Post Office

DATE: NOV 1 - Public Meeting		Sheet:	Of:
NO.	NAME	REPRESENTING	PHONE #
			E-MAIL ADDRESS
1	Sharon Palmeri		
2	Joyce Hiles		
3	Joshua Clark		
4	Steve Hutterman		
5	Eugene McDow		
6	Barb Lawhorne		
7	Ruby McHenry		
8	George D McHenry Jr		
9	Frank Strader		
10	Lexa Kirk		
11	JIM FRITZ		
12	Trish Strader		
13	Susan McConell		
14	G. J. BRADLEY		
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SHEET #1

SPEAKERS

Morgan County Commission

MEETING SIGN-IN SHEET

Great Cacapon Post Office

Speak —
3 minutes

DATE: NOV 1 - Public Meeting		Sheet: Of:	
NO.	NAME	REPRESENTING	E-MAIL ADDRESS
1	KEITH DEBLASIO	ADVO CARE	KEITH@MARTINDEBLASIO.ORG
2	Louise Spring		
3	Lynn Hicks		
4	Rick Dunn		
5	Jerry Bernier		
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SHEET #2

SPEAKERS
Morgan County Commission

Sign-In sheet to

Speak -

3 minutes

MEETING SIGN-IN SHEET

Great Cacapon Post Office

DATE: NOV 1 Public Meeting		Sheet:	Of:	
NO.	NAME	REPRESENTING	PHONE #	E-MAIL ADDRESS
1	Susan McConnell			
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Exhibit F

Residents appeal changes to Great Cacapon Post Office - journal-news.net | News, sports, jobs, community information for Martinsburg - The Journal

<http://www.journal-news.net/page/content.detail/id/586672.htm>

November 23, 2012

By Tricia Lynn Strader - Special to The Journal , journal-news.net

GREAT CACAPON - Great Cacapon residents won't accept defeat in their battle against the U.S. Postal Service, which plans to reduce service hours in 2013 from eight to six on weekdays, and possibly replace acting full-time postmaster Rick Dunn with a part-timer.

If Dunn remained, he'd take a pay cut. They were told Oct. 24 by postal officials the changes were already approved. But they and Morgan County commissioners started a letter-writing campaign to postal officials, the Postal Regulatory Commission and elected officials. County commissioners held a second meeting Nov. 1. Keith DeBlasio said he filed a formal complaint Oct. 31 with the Postal Regulatory Commission on behalf of his nonprofit business AdvoCare Inc.

"The Postal Service told us an untruth," DeBlasio said. "They said it was a done deal. The POST Plan was approved with no possible appeal. Hours would be reduced. I found out final approval is done by the Postal Regulatory Commission, not the Postal Service. And the Postal Regulatory Commission is still accepting comments."

In September, residents received what they say was a misleading questionnaire from the USPS about impending changes. They said there was no choice to keep full-time window hours and the same postmaster. They only had four choices. First was decreased service hours on weekdays, with no change in Saturday hours; second, closing the post office and providing all service by the carrier in a mobile post office, or online. The carrier would pick up, weigh and deliver all packages, and sell stamps, money orders, etc.; third, closing and having a smaller "village post office" in another retail location; fourth, closing and using the Berkeley Springs or Paw Paw post offices.

On Oct. 24, 150 people heard regional Manager of Post Office Operations Patty Jessee read a statement that the Postal Service had faced financial difficulties for some time. The statement blamed email and Internet transactions and use of alternative shippers for losses. The Postal Service considered closing some small rural post offices, but the result was reduced hours. The POST Plan, announced in May, stipulates rural locations could reduce service hours to six, four or two a day. No employees would lose their jobs, and access to the retail lobby and P.O. boxes should remain unchanged. But, since Dunn is a full-time employee, he may not remain at Great Cacapon.

The reduced hours include a nearly 75-minute lunch closing. Jessee said complaints might not change the outcome, which would take place by Jan. 12.

County commissioners have created appeal form letters and pre-addressed envelopes for residents who don't want to write their own. They're available at the post office.

"The Postal Regulatory Commission chairperson gave an advisory opinion that agreed with the POST Realignment Plan," DeBlasio said, "but it also said they want feedback from the community. It's not a business decision. This post office is revenue-earning. I found out of the 13,000 targeted post offices in the POST Plan, 46 percent are revenue-earning. Of those, Great Cacapon is one of the top earners."

Cheryl Rink said she sent an email last week along with five letters. She received an email that said Great Cacapon was operating at a net loss. "I don't like being played," she said.

Susan McConnell pointed out the long lunch "is actually taking us below six hours a day. We should recommend a shorter lunch."

Since September, DeBlasio had left several messages at the USPS and its Inspector General to find out the appeal process. He received no reply. He filed his complaint Oct. 31.

"After that, I got two phone calls from Postal Service attorneys," he said. "They said my complaint had no merit and I had not complied with trying to reach general counsel or resolve the issue before filing my complaint. I can prove I made attempts. By law, they cannot discriminate against rural communities. The law provides the option for the post office not to be changed. Now they want to informally resolve the complaint but kept saying the hours will reduce from eight to six per day."

He said the changes may force him to use other post offices "across the mountains" or FedEx more. But FedEx delivers his packages to the post office, he said. Other small business owners said if Dunn was removed and hours were reduced, they'd take their business away from the USPS.

Retired postmaster Louise Spring said with reduced hours, they'll lose revenue. "Then it's just a matter of time. In a year or two, they'll close it down."

For many the post office is their connection to the outside world. Great Cacapon is largely isolated from other parts of the county. Internet and cell service are spotty. Carriers don't deliver to their rural homes; they even get packages from FedEx or UPS, which don't deliver to their homes. To go to Paw Paw or Berkeley Springs, they must drive sometimes treacherous roads. Since there's no community center, library or school, it's their hub for news and book exchange in agreement with the library at Berkeley Springs. It's a collection station for food and clothing donations.

Customers said Dunn made the difference and went the extra mile.

Semi-retired attorney Jerry Berman, a resident, said letters must stress it generates revenue.

"Liking Rick Dunn won't get us to first base. They have to decide we deserve keeping the post office and they profit from it. We have to tell them the hours don't make sense, that many people don't have Internet to use the USPS website, or they cannot get to another post office for whatever reason," he said.

The USPS has 20 days to respond to DeBlasio's complaint. He said anyone served by Great Cacapon can file a complaint, get their own docket number, but be added to his as a party of the same complaint. His docket number is C2013-1. The POST Plan docket number is N2012-2. Residents suggested mailing letters from Great Cacapon.

Exhibit G



HOUSE OF DELEGATES WEST VIRGINIA LEGISLATURE

BUILDING 1, ROOM 6-R
1900 KANAWHA BLVD., EAST
CHARLESTON, WV 25305-0470
PHONE (304) 340-3177

DARYL E. COWLES
2612 MARTINSBURG RD.
BERKELEY SPRING, WV 25411
(304) 258-1880 (O)
(304) 258-6470 (H)
dcowles@mail.wvnet.edu

Committees:
Government Organization
Political Subdivisions
(Minority Vice-Chair)
Roads & Transportation

October 30, 2012

Alan Diltz:

Thank you for your letter about the Great Cacapon Post Office.

I understand your concerns and I have been in communication with Postmaster Rick Dunn about the process. As your state representative in the WV House of Delegates, I will share your concerns at every opportunity. However, the post office issue is a federal government issue. As such, I would urge you to also communicate with our federal representatives in Congress.

I do support a delay in the decision process and oppose any reduction in hours of operation for the Great Cacapon Post Office. I have made my opinion clear to our members of Congress.

Please do not hesitate to contact me if I can help you in any way.

Thank You,

A handwritten signature in black ink, appearing to read "Daryl Cowles", is written over a horizontal line.

Daryl Cowles
Delegate
WV House of Delegates

Exhibit H

United States Senate
WASHINGTON, DC 20510-4804

SUITE 303
HART BUILDING
WASHINGTON, DC 20510
(202) 224-3954

ENERGY AND NATURAL
RESOURCES COMMITTEE
ARMED SERVICES COMMITTEE
SPECIAL COMMITTEE ON AGING

November 9, 2012

Mr. Alan Dilts
20 Candlewood Lane
Great Cacapon, West Virginia 25422-3217

Dear Mr. Dilts,

Thank you for contacting me and for sharing your concerns about reforms to the United States Postal Service (USPS). I appreciate the time you took to share your perspective with me, and I value the opportunity to hear your thoughts.

As you may know, the USPS has been facing serious budget deficits due to the recent recession, the increased use of electronic communication, and the costs of retiree health benefits. Indeed, it has defaulted on the \$5.6 million owed as of September 30, 2012. In order to become solvent, the USPS must cut \$20 billion in costs by 2015. Initially, the USPS released a plan to close 3,700 post offices across the United States – including 150 in West Virginia. I have passionately opposed this approach. On May 9, 2012, USPS announced a new strategy that would keep the nation's rural post offices open by reducing their hours of operation.

I had serious concerns with the USPS' original plan and strongly opposed any closures. After all, the closing of these 3,700 post offices would only save \$200 million, which is less than 1 percent of the \$20 billion shortfall and roughly equivalent to the amount U.S. taxpayers pay for one day of our military's presence in Afghanistan. As I have said before, rural post offices are a critical lifeline to the communities they serve. Senior citizens depend on the USPS for timely supplies of life-saving prescription medications, and small businesses need reliable, prompt delivery service to succeed in the current competitive landscape. Most importantly, these post offices are often the only way many of our towns can communicate with the rest of our great state and the country. While I understand that the USPS must make tough choices to succeed in the future, I believe that we can move forward without adversely affecting those who depend the most on USPS services.

That is why I authored and introduced Amendment #2079 to the *21st Century Postal Reform Act*. My amendment would have prohibited the Postal Service from closing any mail processing facility or post office for two years. The Postal Service should explore all cost-saving options before closing our post offices,

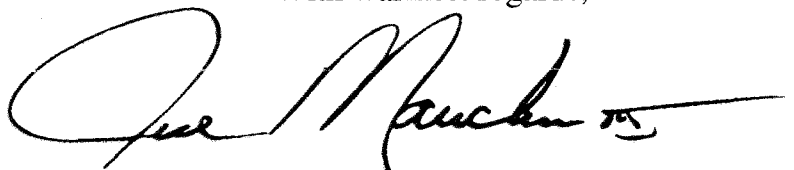
which would leave thousands jobless and our communities stranded. Unfortunately, my amendment did not receive the 60-votes required for passage, and was not adopted.

On April 25, 2012, the U.S. Senate passed S.1789, the *21st Century Postal Service Act of 2012*. I, along with 36 of my Senate colleagues, opposed the bill, since it does not responsibly address the Postal Service's fiscal challenges. The Postal Service needs to explore different ways to put their fiscal house back in order, and not balance its books on the backs of rural communities. This bill will close postal facilities, reduce delivery standards, and add \$6.3 billion to the federal deficit over the next 10 years. I know that there is a better solution, and I cannot support this measure. The bill is not yet law, however, since the House of Representatives has yet to consider this legislation.

On May 9, 2012, in lieu of its original plan to close 3,700 post offices, the USPS said 13,000 rural post offices would see reduced operations of between 2-6 hours to save \$300 billion per year. So far, we know that 478 post offices in West Virginia could be affected. Though I was pleased that the USPS reversed course from simply closing these important post offices, I do not believe this compromise is perfect. I continue to urge the USPS to explore alternative cost-saving measures such as reducing executive compensation, getting rid of unused space, and ending advertising sponsorships. You may be assured that I will keep your concerns in mind should this issue come before the full Senate for consideration in the future.

Again, thank you for taking the time to add your voice to this important discussion. If I may be of further assistance to you, please do not hesitate to contact my office.

With warmest regards,

A handwritten signature in black ink, appearing to read "Joe Manchin III", with a long horizontal flourish extending to the right.

Joe Manchin III
United States Senator

JM/lg

Exhibit I

Keith Wm. DeBlasio

From: eCustomerCare National <ECCADUSER@usps.gov>
Sent: Monday, November 05, 2012 4:08 PM
To: keith@smartoncrimesolutions.org
Subject: Response to your recent inquiry (Case ID 110595950) (KMM13001690I15977L0KM)

Dear Keith Deblasio,

Thank you for contacting us about contact information. I understand you want the contact number for the General Counsel's office.

I apologize for any inconvenience this may have caused, Keith. We do not have a direct number available for that office. You can reach them by mail at:

GENERAL COUNSEL

US POSTAL SERVICE

475 L'ENFANT PLZ SW RM 6004

WASHINGTON DC 20260

In the future, you can find this sort of information at http://about.usps.com/handbooks/as353/as353c1_005.htm.

I appreciate that you contacted me about this, Keith, and hope you follow up. Thank you for choosing the United States Postal Service for your mailing and shipping needs. We appreciate your business.

Regards,

Kathryn

If we can be of assistance to you in the future, please don't hesitate to contact us. The email address that this was sent from is not a manned email, so please use the following link:

https://www.usps.com/customerservice/redirects/email.htm?from=CustomerService&page=Center_EmailUs

Your privacy is important to us. If you would like additional information on our privacy policy, please visit us online at:

<https://www.usps.com/>

Keith Wm. DeBlasio

From: eCustomerCare National <ECCADUSER@usps.gov>
Sent: Sunday, November 04, 2012 4:30 PM
To: Keith DeBlasio
Subject: Your Assistance Has Been Requested for eCustomerCare Case 110595950.
(KMM12988966I15977L0KM)

Dear Keith DeBlasio,

Thank you for contacting us about contact information. I understand you want to contact an attorney within the General Counsel's office.

I apologize for needing clarification, Keith. In order to help you, I will need to know which organization, company or agency you are looking for with regards to General Counsel. Also, I will need to know more information on why you are trying to contact them.

I appreciate that you contacted me, Keith, and request that you respond at your convenience. Thank you for choosing the United States Postal Service for your mailing and shipping needs. We appreciate your business.

Regards,

Kathryn

If we can be of assistance to you in the future, please don't hesitate to contact us. The email address that this was sent from is not a manned email, so please use the following link:

https://www.usps.com/customerservice/redirects/email.htm?from=CustomerService&page=Center_EmailUs

Your privacy is important to us. If you would like additional information on our privacy policy, please visit us online at:

<https://www.usps.com/>